IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.7767 OF 2003

M/s Mopal Trading Company & Anr. .. Petitioners

Vs

M/s Natwarlal & Company, .. Respondents

Mr. Nitin Mule i/b Mr G.S.Godbole, for the petitioners.

Mr Tejas Dande, for the respondent.

CORAM : D.B.BHOSALE,J.

DATE : 30th November, 2004.

PC:

1. Rule. Rule returnable forthwith. Mr.Dande, learned counsel, waives service for the respondents. By consent, heard finally.

2. By this petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 15.9.2003, by which the trial Court has rejected the application filed by the petitioners for setting aside "No W.S. Order" passed on 17.7.2002. The respondents have filed the suit against the petitioners in the Court of the learned Civil Judge, Sr.Dn,, Pune. The petitioners are from Aurangabad. After "No W.S. Order" was passed on 17.7.2002, the matter was adjourned

to 17.10.2002. There does not seem to be any dispute that on 17.10.2002 the petitioners filed the application for setting aside "No W.S. Order" along with his written statement. I perused the impugned order and other material placed on record.

3. After having heard the learned counsel for the petitioners and considered the material placed on record, I am satisfied that this petition deserves to be allowed on payment of cost. Mr.Dande, learned counsel for the respondents, submitted that the petitioners be saddled with heavy cost. In the circumstances, I pass the following order.

(i) The writ petition is allowed.

(ii) The petitioners be allowed to file written statement within two weeks from today subject to payment of cost of Rs.7500/- to the respondents-plaintiffs. The trial Court to proceed with the suit on merits in accordance with law expeditiously.

. Parties to act on the authenticated copy of this order which may be made available to the parties.

(D.B.BHOSALE, J.)